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CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES

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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

26 UNITED STATES OF AMERICA,
27 Plaintiff,

28 v.

ADAM BROS. FARMING, INC.,
ICEBERG HOLDINGS, L.P., RICHARD
ADAM, PETER ADAM, KIERAN ADAM,
AND DOMINIC ADAM,
Defendants.

No. -07409
COMPLAINT

CAS
(RNBx)

The United States of America ("United States"), by authority of the Attorney General and at the request of the United States Environmental Protection Agency ("EPA"), alleges as follows:

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26 UNITED STATES DISTRICT COURT
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The United States of America ("United States"), by authority of the Attorney General and at the request of the United States Environmental Protection Agency ("EPA"), alleges as follows:

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1 California.

2 11. Kieran Adam is an individual residing in or near Santa Barbara County,
3 California.

4 12. Dominic Adam is an individual residing in or near Santa Barbara County,
5 California.

6 THE CLEAN WATER ACT

7 13. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits "the discharge of
8 any pollutant" into waters of the United States except, inter alia, as authorized under section
9 404 of the Clean Water Act. 33 U.S.C. § 1344.

10 14. Section 404(a) of the CWA, 33 U.S.C. § 1344(a), authorizes the Secretary of
11 the Army, acting through the United States Army Corps of Engineers ("Corps"), to issue
12 permits for the discharge of dredged or fill material into waters of the United States.

13 15. The term "pollutant" as defined in section 502(6) of the CWA, 33 U.S.C. §
14 1362(6), includes "dredged spoil,...rock, sand [and] cellar dirt."

15 16. The term "discharge of a pollutant" as defined in section 502(12) of the CWA,
16 33 U.S.C. § 1362(12), includes "any addition of any pollutant to navigable water from any
17 point source."

18 17. The term "person" as defined in section 502(5) of the CWA, 33 U.S.C. §
19 1362(5), includes "an individual, corporation, partnership, [or] association.."

20 18. The term "navigable waters" as defined in section 502(7) of the CWA, 33
21 U.S.C. § 1362(7), means "waters of the United States."

22 19. The term "wetlands" is defined by regulation as "those areas that are inundated
23 or saturated by surface or ground water at a frequency and duration sufficient to support, and
24 that under normal circumstances do support, a prevalence of vegetation typically adapted for
25 life in saturated soil conditions." 33 C.F.R. § 328.3(b); 40 C.F.R. § 230.3(t).

26 20. The term "waters of the United States" is defined by regulation to include (a)
27 all waters which are currently used, or were used in the past in interstate or foreign
28 commerce; (b) all other waters such as intrastate rivers and streams, including intermittent

1 streams, the use degradation or destruction of which could affect interstate or foreign
2 commerce; (c) tributaries of waters of the United States; and (d) wetlands adjacent to such
3 waters. 40 C.F.R. § 230.3(s) and 33 C.F.R. § 328.3(a).

4 21. The term "point source" as defined in section 502(14) of the CWA, 33 U.S.C.
5 § 1362(14), includes "any discernible, confined and discrete conveyance...from which
6 pollutants are or may be discharged."

7 22. Section 309(b) of the CWA, 33 U.S.C. § 1319(b), authorizes EPA to file a civil
8 action for appropriate relief, including a permanent or temporary injunction, against any
9 person who violates section 301(a), 33 U.S.C. § 1311(a).

10 23. Section 309(d) of the CWA, 33 U.S.C. § 1319(d), provides that any person who
11 violates sections 301(a) of the CWA, 33 U.S.C. §§ 1311(a), shall be subject to civil penalties
12 for each day of each violation.

13 FACTUAL BACKGROUND

14 A. The Site

15 24. The real property at issue in this case consists of four parcels located adjacent
16 to State Highway One between Black and Solomon Roads near the community of Orcutt in
17 Santa Barbara County, California (Santa Barbara County Assessor's Parcel Nos. 111-240-05,
18 07, 20, and 24) ("the Site"). The Site consists of about 240 acres.

19 25. Orcutt Creek is an intermittent stream that transverses the Site. Several
20 unnamed tributaries drain into Orcutt Creek on the Site ("the Unnamed Tributaries"). Orcutt
21 Creek and the Unnamed Tributaries are tributaries of the Pacific Ocean. Orcutt Creek and
22 the Unnamed Tributaries historically provided habitat for the California Red-legged Frog,
23 a threatened species listed under the Endangered Species Act, 16 U.S.C. §§ 1531 et seq., and
24 habitat suitable for use by migratory birds.

25 26. Adjacent to Orcutt Creek and the Unnamed Tributaries on the Site is a large
26 area of wetlands ("the Wetlands").

27 27. Orcutt Creek, the Unnamed Tributaries, and the Wetlands comprise about 79
28 acres of the 240-acre Site.

1 B. Defendants' Ownership and Control Of The Site

2 28. Richard Adams and his wife, Bernadette Adams, purchased the Site on
3 November 13, 1997, and continued to own the Site until December 30, 1998. On that date
4 they transferred the Site to Iceberg Holdings.

5 29. Iceberg Holdings has owned the Site at all times since December 30, 1998.
6 The general partners of Iceberg Holdings are Richard Adam and Bernadette Adam. The
7 three limited partners in Iceberg Holdings are their adults sons, Peter Adam, Kieran Adam,
8 and Dominic Adam.

9 30. Adam Bros. is a closely-held corporation controlled by the Adam family.
10 Richard Adam and his sons Peter Adam, Kieran Adam, and Dominic Adam are officers,
11 directors, and shareholders of the corporation.

12 31. Adam Bros. conducts farming operations and other activities on the Site. For
13 this purpose, Adam Bros. leases the Site from Iceberg Holdings.

14 C. Discharges Into Waters Of The United States In 1998 and 1999

15 32. In 1998 and 1999 Defendants arranged for and carried out a sweeping
16 alteration of the surface features and hydrology of the Site. Defendants' activities on the Site
17 included: mechanized landclearing; channelization of Orcutt Creek and the Unnamed
18 Tributaries; construction of berms, roads, drains, and artificial streambanks; installation of
19 subsurface pipes; and the placement of earthen materials into Orcutt Creek, the Unnamed
20 Tributaries, and the Wetlands. Dredged or fill material was discharged into approximately
21 70 acres of waters of the United States on the Site.

22 31. Defendants' activities have had an adverse environmental impact on the Site.
23 Site hydrology has been altered due to obstruction of natural stream channels, restriction of
24 water flow to confined artificial channels, and draining of wetland and riparian areas. These
25 alterations have interfered with the hydrology needed to sustain wetland and riparian
26 ecosystems. Defendants also removed or buried native wetland and riparian vegetation that
27 provided valuable habitat for wildlife species.

28 32 Defendants have never obtained a permit under Section 404 of the Clean Water

1 Act for the discharge of dredged or fill material into waters of the United States on the Site.

2 33. On June 16, 1999, EPA issued an information request to Adam Bros., Richard
3 Adam, Peter Adam, Kieran Adam, and Dominic Adam pursuant to section 308 of the CWA.
4 This information request required each recipient to provide information concerning, inter
5 alia, the recipient's income and net worth. Each of the recipients failed to provide the
6 requested financial information.

7 34. On August 3, 1999, EPA issued an administrative order to each of the
8 Defendants requiring them to remediate the environmental harm caused by their unlawful
9 discharges at the Site. Findings of Violation and Compliance Order, Docket No. CWA 404-
10 09a-99-003. ("Compliance Order"). This order required Defendants to retain an EPA-
11 approved contractor to prepare plans for restoring the Site and for off-site mitigation, and to
12 implement these plans after EPA approval. Defendants have failed to comply with this order.

13 FIRST CLAIM FOR RELIEF

14 (Unlawful Discharge of Dredged and Fill Material)

15 35. The United States incorporates by reference the allegations contained in
16 paragraphs 1 through 34 inclusive as though set forth in full herein.

17 36. Adam Bros., through its officers and directors, arranged for, directed, and
18 participated in the discharge of dredged and fill material into Orcutt Creek, the Unnamed
19 Tributaries, and the Wetlands in 1998 and 1999.

20 37. Richard Adam, Peter Adam, Kieran Adam, and Dominic Adam, individually
21 and as officers and representatives of Adam Bros., arranged for, directed, or participated in
22 the discharge of dredged and fill material into Orcutt Creek, the Unnamed Tributaries, and
23 the Wetlands in 1998 and 1999.

24 38. Iceberg Holdings, through its general partner Richard Adam, authorized and
25 benefitted from the discharge of dredged and fill material into Orcutt Creek, the Unnamed
26 Tributaries, and the Wetlands in 1999.

27 39. Each of the Defendants is a person under section 502(5) of the CWA, 33
28 U.S.C. § 1362(5).

1 40. Orcutt Creek, the Unnamed Tributaries, and the Wetlands are "waters of the
2 United States" within the meaning of 40 C.F.R. § 230.3(s) and 33 C.F.R. § 328.3(a).

3 41. The materials discharged by the Defendants into Orcutt Creek, the Unnamed
4 Tributaries, and the Wetlands are "pollutants" within the meaning of section 301(a) of the
5 CWA. 33 U.S.C. § 1311(a).

6 42. The equipment used to place these pollutants into Orcutt Creek, the Unnamed
7 Tributaries, and the Wetlands are "point sources" within section 502(14) of the CWA, 33
8 U.S.C. § 1362(14).

9 43. Each of the Defendants violated section 301(a) of the Clean Water Act., 33
10 U.S.C. § 1311(a) by discharging pollutants from a point source into waters of the United
11 States without authorization under the CWA.

12 44. The dredged and fill material unlawfully discharged by Defendants remains in
13 waters of the United States at the Site. Each day that such material remains in waters of the
14 United States constitutes a separate day of violation

15 SECOND CLAIM FOR RELIEF

16 (Failure To Comply with Remediation Order)

17 45. The United States incorporates by reference the allegations contained in
18 paragraphs 1 through 47 inclusive as though set forth in full herein.

19 46. On August 3, 1999, EPA issued an administrative compliance order to each of
20 the Defendants pursuant to sections 308 and 309(a) of the CWA. This order required the
21 Defendants to take certain steps to remediate the environmental harm caused by their
22 unlawful discharges. The order required, among other things, that the Defendants prepare
23 an on-site restoration plan by October 1999 and an off-site mitigation plan by November
24 1999. The order further required that Defendants implement the on-site and off-site plans
25 after receiving EPA approval.

26 47. Defendants have failed to comply with the 1999 administrative order.

27 48. Defendants' failure to comply with the 1999 administrative order is a violation
28 of section 309 of the CWA. Each day of non-compliance constitutes an additional day of

1 violation.

2 PRAYER FOR RELIEF

3 WHEREFORE, the United States prays that the Court:

- 4 A. Permanently enjoin Defendants from discharging dredged or fill material into
5 waters of the United States on the Site except as authorized under the Clean Water Act;
6 B. Require Defendants to undertake restoration and mitigation in compliance with
7 EPA's 1999 administrative order;
8 C. Assess civil penalties against the Defendants;
9 D. Award the United States its costs in this action; and
10 F. Grant the United States such other relief as may be just and proper.

11 Respectfully submitted,

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13 Assistant Attorney General
14 Environment & Natural Resources Division

15 Dated: July 6, 2000

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